

REMARKS

Claims 1-3 and 5-20 are pending in this application. By this Amendment, claim 4 has been cancelled, and the specification and claims 1, 8-13 and 15 have been amended. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the objections and rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Claims 8, 9 and 11-13 have been amended to clearly recite means plus function language, remove "step" language and/or to have the claims comport with amendments to their respective independent claims. The specification has been amended to correct minor typographical errors.

In the Office Action, claims 1-6, 8-10 and 12-20 are rejected under 35 U.S.C. §102(e) as being anticipated by Jayam et al. (US Pub 2003/0115337 A1)(hereinafter "Jayam"). Further, claims 7, 11 and 18 are rejected under 35 U.S.C. §103(a) over Jayam in view of Buskens et al. (US Patent 5905871).

Applicants respectfully submit that Jayam does not disclose each and every feature of the revised claims. Jayam discloses an apparatus and method for transmitting data using TCP that uses a retransmit queue 502 and a transmit pending queue 504. Jayam stores a packet in the retransmit queue 502 when a transmit

"window size is sufficient to transmit" the packet. Para. 0047, lines 1-2. Alternatively, if the transmit window size is insufficient to transmit the packet, the packet is placed into the transmit pending queue 504. Para. 0047, lines 4-7. Accordingly, the use of the queues in Jayam is based solely on the bandwidth of a transmit window 402, which performs congestion control at the transmitting host computer. Para. 0045. In contrast, the claimed invention, as recited in revised independent claims 1, 10 and 15, bases use of the queues on a notification of new transmission data posted from a requester. That is, the transmit request handler, based on the notification of new transmission data posted from the requester, places a connection in the pending queue, i.e., when all of the data therefor has not been received, or places the connection in the ready queue, i.e., when all of the data for the connection is received. The notification acts to have the transmit request handler determine whether a previously incomplete connection is completed by the new transmission data. Jayam does not disclose, *inter alia*, this feature.

In the Office Action, the Office asserts that Jayam's counting of packets in the transmit queue acts like a notification of new transmission data posted request. Office Action, page 3. Applicants respectfully submit, however, that Jayam does not disclose, among other things, receipt of the notification from a requester, as claims 1, 10 and 15 now recite. That is, the counting of a number of packets in the transmit queue is not equivalent to actually receiving a notification from the requester. Further, Applicants do not agree that counting of packets necessarily would indicate whether new transmission data was posted for a particular packet. The fact that a new packet enters the transmit

queue and is counted has nothing to do with whether new transmission data has been posted for a particular packet.

In view of the preceding arguments, Applicants submit that Jayam fails to disclose the claimed invention, and thus request withdrawal of the rejection.

Claims 2, 3, 5-9, 11-14 and 16-20 depend directly or indirectly from presumably allowable claims 1, 10 and 15, respectively. Accordingly, Applicant requests that the Examiner reconsider and remove the rejections of claims 1-3 and 5-20.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, he is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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